

## § 105.125

the facility and are made available to the Coast Guard upon request:

(a) The approved Facility Security Plan (FSP), as well as any approved revisions or amendments thereto, and a letter of approval from the COTP dated within the last 5 years;

(b) The FSP submitted for approval and an acknowledgement letter from the COTP stating that the Coast Guard is currently reviewing the FSP submitted for approval, and that the facility may continue to operate so long as the facility remains in compliance with the submitted FSP; or

(c) For facilities operating under a Coast Guard-approved Alternative Security Program as provided in §105.140, a copy of the Alternative Security Program the facility is using, including a facility specific security assessment report generated under the Alternative Security Program, as specified in §101.120(b)(3) of this subchapter, and a letter signed by the facility owner or operator, stating which Alternative Security Program the facility is using and certifying that the facility is in full compliance with that program.

[USCG-2003-14732, 68 FR 39322, July 1, 2003, as amended at 68 FR 60541, Oct. 22, 2003]

## § 105.125 Noncompliance.

When a facility must temporarily deviate from the requirements of this part, the facility owner or operator must notify the cognizant COTP, and either suspend operations or request and receive permission from the COTP to continue operating.

[USCG-2003-14732, 68 FR 60541, Oct. 22, 2003]

## § 105.130 Waivers.

Any facility owner or operator may apply for a waiver of any requirement of this part that the facility owner or operator considers unnecessary in light of the nature or operating conditions of the facility, prior to operating. A request for a waiver must be submitted in writing with justification to the Commandant (CG-54) at 2100 Second St., SW., Washington, DC 20593. The Commandant (CG-54) may require the facility owner or operator to provide data for use in determining the validity of the requested waiver. The Commandant (CG-54) may grant, in writing,

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a waiver with or without conditions only if the waiver will not reduce the overall security of the facility, its employees, visiting vessels, or ports.

[USCG-2003-14732, 68 FR 39322, July 1, 2003; 68 FR 41916, July 16, 2003; USCG-2008-0179, 73 FR 35009, June 19, 2008]

## § 105.135 Equivalents.

For any measure required by this part, the facility owner or operator may propose an equivalent as provided in §101.130 of this subchapter.

## § 105.140 Alternative Security Program.

(a) A facility owner or operator may use an Alternative Security Program approved under §101.120 of this subchapter if:

(1) The Alternative Security Program is appropriate to that facility;

(2) The Alternative Security Program is implemented in its entirety.

(b) A facility owner or operator using an Alternative Security Program approved under §101.120 of this subchapter must complete and submit to the cognizant COTP a Facility Vulnerability and Security Measures Summary (Form CG-6025) in appendix A to part 105—Facility Vulnerability and Security (CG-6025).

## § 105.145 Maritime Security (MARSEC) Directive.

Each facility owner or operator subject to this part must comply with any instructions contained in a MARSEC Directive issued under §101.405 of this subchapter.

## § 105.150 Right to appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal as described in §101.420 of this subchapter.

## Subpart B—Facility Security Requirements

## § 105.200 Owner or operator.

(a) Each facility owner or operator must ensure that the facility operates in compliance with the requirements of this part.